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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,968	03/02/2004	David L. Kaminsky	RSW920040009US1	2144

51016 7590 07/10/2007
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EXAMINER

MANOHARAN, MUTHUSWAMY GANAPATHY

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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07/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/790,968	Applicant(s) KAMINSKY ET AL.	
	Examiner Muthuswamy G. Manoharan	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erb (US 2004/0142703) in view of Seligmann (US 7142664).

Regarding **claim 1**, Erb teaches an apparatus comprising: a storage readable medium; wherein the storage medium comprises instructions for a processor to perform steps comprising: detecting an incoming telephone call (Abstract, line 2);

determining a plurality of conditions associated with a telephone (items 102 and 106 in Figure 7; Paragraph [0032-0033]);

comparing the conditions to a plurality of policies (Figure 4), each policy comprising a plurality of condition criteria and a telephone behavior instruction (Abstract, lines 1-9);

identifying a single policy within the policies, the single policy containing the condition criteria corresponding to the conditions (Paragraph [0009], lines 1-14); and

adjusting a telephone behavior according to the telephone behavior instruction for the single policy (paragraph [0035], lines 5-10).

Erb did not teach specifically, wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors; and wherein the action is accomplished without a mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component. However, Seligmann teaches in an analogous art, wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors; and wherein the action is accomplished without a mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component. (Abstract; Figure 8; col. 5, lines 4-67; Col. 6, lines 1-5).

Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use the processor wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors; and wherein the action is accomplished without a

mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component. This modification provides additional operating characteristics (notifying method) to the apparatus that can be suitable for a user's environment.

Regarding **claim 2**, Erb teaches the apparatus of claim 1 wherein the policies further comprises: a policy priority number and wherein the policy priority number resolves any outcome conflicts between the policies ("importance Threshold", Figure 4).

Regarding **claim 3**, Erb teaches the apparatus of claim 1 wherein the policies are stored in a policy table according to the policy priority number (Figure 4; Paragraph [0033], lines 1-3).

Regarding **claim 4**, Erb teaches the apparatus of claim 1 further comprising: the telephone; and wherein the storage medium is a memory within the telephone (Paragraph [0033], line 3).

Regarding **claim 5**, Erb teaches the apparatus of claim 5 wherein the steps further comprises: allowing a user to define the policies using a policy creation program (Paragraph [0031], line 1; Paragraph [0038], lines 1-2).

Regarding **claim 6**, Erb teaches the apparatus of claim 1 wherein one of the condition criteria is a location criterion; and wherein the location of the telephone is determined using a GPS network (Paragraph [0037], lines 7-8).

Regarding **claim 7**, Erb teaches the apparatus of claim 6 wherein one of the condition criteria is a location criterion; and wherein the location of the telephone is determined using triangulation (Paragraph [0010], lines 10-12).

Regarding **claim 8**, Erb teaches the apparatus of claim 6 wherein one of the condition criteria is a context criterion (Paragraph [0040], lines 3-5) and wherein the context is determined by accessing a PDA program stored on the telephone ("calendar tool", Paragraph [0040]).

Regarding **claim 9**, Erb teaches the apparatus of claim 6 wherein one of the condition criteria is a caller criterion; and wherein the caller identity is determined by analyzing the caller ID data associated with the incoming telephone call (Paragraph [0032], lines 3-7).

Regarding **claim 10**, Erb teaches the apparatus of claim 6 wherein one of the condition criteria is a caller criterion (Paragraph [0032], lines 4-6); and wherein the caller identity is determined by analyzing the caller ID data associated with the incoming telephone call (Paragraph [0032], lines 4-5) and accessing a PDA program stored on the telephone (paragraph [0032], line 7).

Regarding **claim 11**, Erb teaches the apparatus of claim 6 wherein the condition criteria comprise a location criterion and a context criterion (Paragraph [0040], lines 1-9).

Regarding **claim 12**, Erb teaches the apparatus of claim 6 wherein the condition criteria comprise a location criterion and a caller criterion (Figure 7; Figure 4; Paragraphs [31-33]).

Regarding **claim 13**, Erb teaches the apparatus of claim 6 wherein the condition criteria comprise a context criterion (Paragraph [0040], lines 1-5). Erb also teaches a caller criterion (Paragraph [0032]). He also teaches condition criteria involving more than one criterion (context and location, Paragraph [0040]; caller and location, Paragraphs [31-33]). Therefore, it would be obvious to one of ordinary skill in the art to use the condition wherein the condition criteria comprise context criterion, and a caller criterion. This modification gives additional flexibility to the user of the telephone.

Regarding **claim 14**, Erb teaches the apparatus of claim 6 wherein the condition criteria comprise a location criterion, and a caller criterion (Paragraph [0031-0033]). Erb did not teach specifically the condition criteria comprise a location criterion, a context criterion, and a caller criterion. However, Erb teaches in another embodiment, the apparatus of claim 6 wherein the condition criteria comprise a location criterion, and a context criterion (Paragraph [0040], lines 1-9). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use the condition criteria comprise a location criterion, a context criterion, and a caller criterion. This modification gives additional flexibility to the user of the telephone.

Regarding **claim 15**, Erb teaches a method comprising: installing a telephone control program on a storage medium (Paragraph [0031], lines 1-2). The other limitations of the Claim 15 are rejected for the same reasons as set forth in the claim 1.

Claim 16 is rejected for the same reasons as set forth in the claim 2.

Regarding **claim 17**, Erb teaches the method of claim 15 wherein the policies further comprises: a policy priority number ("importance threshold", Figure 4); and

wherein the policies are stored in a policy table according to the policy priority number (Figure 4; Paragraph [0033], lines 1-3).

Claims 18-28 are rejected for the same reasons as set forth in claims 4-14, respectively.

Regarding **claim 29**, Erb teaches an apparatus comprising: means for detecting an incoming telephone call (Abstract, line 2); means for determining a plurality of conditions associated with a telephone (items 102 and 106 in Figure 7; Paragraph [0032-0033]); means for comparing the conditions to a plurality of policies (Figure 4), each policy comprising a plurality of condition criteria and a telephone behavior instruction (Abstract, lines 1-9); means for identifying a single policy within the policies, the single policy containing the condition criteria corresponding to the conditions (Paragraph [0009], lines 1-14); means for adjusting a telephone behavior according to the telephone behavior instruction for the single policy (paragraph [0035], lines 5-10); wherein the policy priority number resolves any outcome conflicts between the policies ("importance Threshold", Figure 4); wherein the policies are stored in a policy table according to the policy priority number (Figure 4; Paragraph [0033], lines 1-3); means for allowing a user to define the policies using a policy creation program (Paragraph [0031], line 1; Paragraph [0038], lines 1-2); and wherein the storage medium is a memory within the telephone (Paragraph [0033], line 3).

Erb did not teach specifically, wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors; and wherein the action is

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accomplished without a mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component. However, Seligmann teaches in an analogous art, wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors; and wherein the action is accomplished without a mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component (Abstract, Col. 2, lines 19-27; col. 5, lines 4-67, Col. 6, lines 1-5). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use the processor wherein the telephone behavior is an action that the telephone takes in response to the reception of the incoming calls; wherein the action comprises a plurality of telephone behaviors and wherein the action is accomplished without a mode change control unit, a mode selection button, or a separation of an ambient sound into a speech component and a non-speech component. This modification provides additional operating characteristics to the apparatus that can be suitable for a user's environment.

Regarding **claim 30**, Erb teaches the apparatus of claim 29 wherein the location of the telephone is determined using a GPS network (Paragraph [0037], lines 7-8).

Regarding **claim 31**, Erb teaches the apparatus of claim 29 wherein the location of the telephone is determined using triangulation (Paragraph [0010], lines 10-12).

Regarding **claim 32**, Erb teaches the apparatus of claim 29 wherein the context is determined by accessing a PDA program stored on the telephone ("calendar tool", Paragraph [0040]).

Regarding **claim 33**, Erb teaches the apparatus of claim 29 wherein the caller identity is determined by analyzing the caller ID data associated with the incoming telephone call (Paragraph [0032], lines 3-7).

Regarding **claim 34**, Erb teaches the apparatus of claim 29 wherein the caller identity is determined by analyzing the caller ID data associated with the incoming telephone call (Paragraph [0040], lines 3-5) and accessing a PDA program stored on the telephone (paragraph [0032], line 7).

Response to Arguments

Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

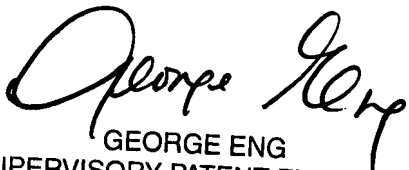
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muthuswamy G. Manoharan whose telephone number is 571-272-5515. The examiner can normally be reached on 7:00AM-2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eng George can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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